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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,382	11/15/2000	Clayton A. George	54680USA8B.008	4594

32692 7590 08/13/2003

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EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/713,382	<b>Applicant(s)</b> GEORGE ET AL.	
	<b>Examiner</b> Victor S Chang	<b>Art Unit</b> 1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |                                                                                              |                                                                             |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn. In particular, the Examiner has carefully considered Applicant's Remarks filed on 7/14/2003, and it is noted that Applicants' argument is correct that Johnson (US 6284360) is not ~~a~~ prior art to the present invention under 35 U.S.C. 103 via 35 U.S.C. 102(e) as a result of a change to 35 U.S.C. 103(c) effective November 29, 1999.

### ***Response to Amendment***

3. With respect to Applicants' request to withdraw the finality of the Office action on the basis that "The RCE was necessary ... to enter Applicants' October 30, 2002 Amendment and Response" (Remarks, page 2, third paragraph), the Examiner notes that the Amendment and Response filed October 30, 2002 have been entered and responded by prior Office action Paper No. 14. The Examiner apologizes for inadvertently used a wrong form paragraph for finality. Nevertheless, since the instant Office action is non-final so as to reinstate the obviousness-type double patenting rejection, it is believed that the previous finality has caused no harm to the Applicants.
4. Claims 11-30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5-10, 12-16, 18-25, 28-32, 34-42 of Johnson (US 6284360) in view of Sekisui Chemical Co. (JP 10195393),

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substantially for the reasons set forth in section 2 of Paper No. 5 and section 3 of Paper No. 17, together with the following additional observations.

For claims 11-20, the Examiner notes that an obviousness-type double patenting over Johnson in view of Sekisui '393 was withdrawn in view<sup>of</sup> a terminal disclaimer filed July 23, 2002. However, the terminal disclaimer has not been accepted (see section 9 of Paper No. 9), because it does not comply with 37 CFR 1.321(b) and/or (c) because the serial number of this application being disclaimed is missing or incorrect. More particularly, terminal disclaimer fails to indicate that both 09/713382 and 08/941430 are owned by the same party. Further, it is noted that Applicants have withdrawn the terminal disclaimer in Applicants' October 30, 2002 Amendment and Response.

As such, for claims 11-20, the Examiner reiterates (see Paper No. 5, pages 1-2) that Johnson shows all the features of the instant claimed invention except for the specific difference in the curing rate of the bulk layer and the adhesive layer. Sekisui '393 discloses a curable pressure sensitive adhesive sheet and a method for bonding members. Sekisui '393 teaches that an excellent initial adhesive strength can be obtained by laminating photocurable pressure sensitive adhesive layers, which contain a mixture of a sticky polymer (such as an acrylic polymer) and an epoxy adhesive compound, with different curing rates (Abstract). As such, in the absence of unexpected results, it would be obvious to one of ordinary skill to modify the sealant layer of Johnson with the layered adhesive structure, as taught by Sekisui '393, motivated by the desire to obtain an excellent initial adhesive strength imparted by the difference in curing rates.

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For claims 21, 22 and 25, Sekisui '393 teaches laminated photocurable pressure sensitive adhesive layers with different curing rates, as set forth above, and it is believed that adjusting the parameters, such as an accelerator, to control the curing rate is either inherently disclosed, or an obvious optimization to one of ordinary skill in the art, motivated by the desire to obtain a suitable initial adhesive strength.

For claims 23 and 24, although Johnson and Sekisui '393 are silent about the thickness of the adhesive layer or the article, it is believed that a suitable thickness is either inherently disclosed, or an obvious optimization to one skilled in the art of adhesive sheet for bonding members.

For claim 26, Johnson teaches that the core layer has an ultimate tensile strength no greater than the ultimate tensile strength of the sealant layer (Johnson, claim 28).

For claims 27 and 28, it is believed that a tie layer and a continuous adhesive layer are old and conventional to enhance adhesion between laminated structures.

For claims 29 and 30, Johnson teaches that the articles are useful for sealing two substrates together, particularly where one of the substrate is glass, and the articles are especially adapted for sealing motor vehicle windshields to a frame (Johnson, claims 24 and 25).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC  
August 11, 2003

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1300-

1700

*Daniel Zinker*